

ORIGINAL

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MAY 7 2004
Illinois Commerce Commission
RAIL SAFETY SECTION

T03-0102

VS.

Respondents.

In the matter of the petition of the City of Des Plaines for an order of the Illinois Commerce Commission to require the respondents to pay their allocable share of the costs of a major alteration of an above grade crossing in the City of Des Plaines, Cook County, Illinois.

NOW COMES WISCONSIN CENTRAL LTD. ("WCL"), through its attorney,

Michael J. Barron, Jr. with its Reply to the City of Des Plaines' ("City") Response to WCL's Motion for Continuance, and in support thereof states as follows:

1. The City's Response claims that the subject matter of the City's Petition is distinguished from the appeal filed by WCL in the 7th Circuit ("7th Circuit Case"). This however, is simply not the case.
2. In its Petition, the City is asking the Commission to grant the following relief:
 - (a) Requiring Respondent Railroads herein to reconstruct and relocate the overhead bridges by which such Railroads intersect Miner Street in a manner that is consistent with IDOT's proposed Highway Improvement Program plans; and
 - (b) Requiring Respondent Railroads herein to bear the major responsibility for the costs of such reconstruction and relocation.

Petition at Page 5.

3. The authority of the Commission to grant the relief requested by the City is precisely one of the issues before the Court in the 7th Circuit Case.

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4. As the City notes in their Petition, the Commission ordered the construction of the current structure in 1923, and the structure has existed since that time.

5. Given how long the current structure has existed, it is hard to see why it is unreasonable to continue the hearing set for the City's Petition until after the Court of Appeals has ruled on the issue of whether the Commission has any authority to grant the precise relief sought by the City in this Petition.


WHEREFORE, WCL respectfully requests that the Commission enter an order:

1. That continues proceedings in this docket for at least 120 days to give the Court of Appeals the opportunity to rule in the 7th Circuit Case; and
2. Grant further relief that the Commission deems just and equitable.

Dated: May 6, 2004

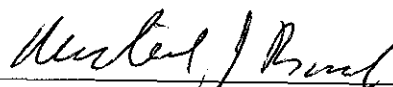
Respectfully submitted,

WISCONSIN CENTRAL LTD.

By: 
Michael J. Barron, Jr.
Counsel for Wisconsin Central Ltd.
CN
17641 S. Ashland Avenue
Homewood, IL 60430
Phone: (708) 332-3954
Fax: (708) 332-3052
ARDC #6228809


VERIFICATION

Michael J. Barron, Jr., being duly sworn, deposes and says that he is Counsel for Wisconsin Central Ltd., that he has read the foregoing Reply of Wisconsin Central Ltd., and that the contents thereof are true and correct to the best of his knowledge and belief.



Michael J. Barron, Jr.

Subscribed and sworn to
Before me this 20th day of
May, 2004.


Notary Public

My Commission Expires: Aug 28, 2005



STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

vs.

UNION PACIFIC RAILROAD COMPANY and WISCONSIN
CENTRAL LTD., and ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondents.

T03-0102

In the matter of the petition of the City of Des Plaines for an order of the
Illinois Commerce Commission to require the respondents to pay their
allocable share of the costs of a major alteration of an above grade crossing
in the City of Des Plaines, Cook County, Illinois.

NOTICE OF FILING

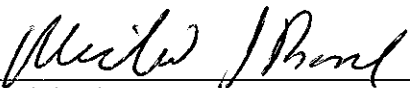
To: Mr. Mack H. Shumate, Jr.
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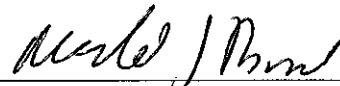
PLEASE TAKE NOTICE that on May 6, 2004, I have sent for filing with the Illinois
Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701, the attached Reply of
Wisconsin Central Ltd.

WISCONSIN CENTRAL LTD.

By 
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CERTIFICATE OF SERVICE

I, MICHAEL J. BARRON, JR., an attorney, certify that I served the foregoing Reply upon those made party to this proceeding by facsimile and by enclosing copies of the foregoing in envelopes addressed to the parties as set forth below, postage prepaid, and depositing the envelopes in the United States mail at 17641 S. Ashland Avenue, Homewood, IL on the 6th day of May, 2004.



Michael J. Barron, Jr.

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